

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 13, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Roger Larson, Dan Marvin, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor (Eugene Carroll, Gerry Krieser and Melinda Pearson absent); Marvin Krout, Mike DeKalb, Ed Zimmer, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held September 29, 2004. Motion for approval made by Taylor, seconded by Marvin and carried 6-0: Carlson, Larson, Marvin, Bills-Strand, Sunderman and Taylor voting 'yes'; Carroll, Krieser and Pearson absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

October 13, 2004

Members present: Carlson, Larson, Marvin, Bills-Strand, Sunderman and Taylor; Carroll, Krieser and Pearson absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04061 and SPECIAL PERMIT NO. 1384E.**

Item No. 1.2, Special Permit No. 1384E, was removed from the Consent Agenda and scheduled for separate public hearing.

Marvin moved to approve the remaining Consent Agenda, seconded by Larson and carried 6-0: Carlson, Larson, Marvin, Bills-Strand, Sunderman and Taylor voting 'yes'; Carroll, Krieser and Pearson absent.

**SPECIAL PERMIT NO. 1384E,
AN AMENDMENT TO THE MARINA BAY ADDITION
COMMUNITY UNIT PLAN, TO REDUCE THE
REAR YARD SETBACK AT 633 MARINA BAY PLACE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the applicant.

Proponents

1. **Mike Smith**, 633 Marina Bay Place, the applicant, submitted some photographs and explained that the reason for this request is a desire to enclose his back patio which encroaches upon the rear yard. The property line is at least 12' from the water. He has the right to use the land up to the water. His neighbor to the south received a variance of his back yard setback and it was reduced to 17'. This is a request for a reduction to 19'. Smith noted that both the Planning Commission and Board of Zoning Appeals have looked favorably on reduction of rear yard setbacks at Capitol Beach previously.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Carlson moved to approve the staff recommendation of conditional approval, seconded by Taylor and carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Krieser, Carroll and Pearson absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 04060
FROM AG AGRICULTURAL TO H-3 HIGHWAY COMMERCIAL
ON PROPERTY GENERALLY LOCATED AT
N.W. 48TH STREET AND HIGHWAY 34.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

1. Mark Hunzeker appeared on behalf of **Larry Coffey**, the owner of the subject property as well as several hundred acres in this vicinity. The study for moving this entire area up in the phasing of the Comprehensive Plan for getting city services sooner is just beginning, if it is making any progress yet at all. The driving force behind this application is the fact that Hwy 34 is about to be widened and the Department of Roads is in the process of negotiating and acquiring that right-of-way. The convenience store near this location has suffered right-of-way takings, driveway closures and relocation of access more than once in the past several years, and the current plan is to reroute the access to this site, making it impossible for Mr. Coffey to continue the business as he does today. The purpose of this application is to rezone a parcel to enable Mr. Coffey to continue business in that vicinity and continue to serve the clientele that he is serving. That store represents Mr. Coffey's highest volume store. It is very desirable to have this service available in the area.

Hunzeker explained that the area of the change of zone is larger than the existing site. This area has had issues with respect to the sewer system and this change of zone area is of a size which is both convenient and large enough to assure safe, convenient access off of N.W. 40th and to have enough land to make sure the septic fields will be able to operate and to circulate traffic on the site in a much more efficient manner.

Hunzeker noted that the Director of Planning is interested in there being an administrative plat which would separate this parcel from the balance of Mr. Coffey's land, and the applicant has agreed. Hunzeker indicated that the final plat application would be submitted before this change of zone is on the Council agenda. Hunzeker also understands that the staff report indicates a desire to get a formal agreement with the plat that would be done in conjunction with the acquisition of the highway and N.W. 40th right-of-way. Hunzeker believes it is inevitable that the access points need to be defined.

Hunzeker believes this to be a very appropriate location for this use. In fact, when the study is completed and the ability to get sewer to this site is determined, he believes that there will be additional development to the north and west of this site, both residential and commercial. This is certainly an area where relative efficient expenditures of infrastructure dollars can result in some good usable residential as well as commercial sites.

Hunzeker stated that the existing building will not be moved. There will be a new building, likely a larger facility. The existing facility is out-moded compared to the more modern facilities that the applicant is building. That is one of the reasons they decided to increase the size of the parcel. There is real concern about how much land it will take for the sewer system.

Hunzeker confirmed that they will make application for the administrative plat prior to City Council action on this change of zone. He does not know whether the agreement will be worked out prior to getting this change of zone to the Council. It needs to be effective after the acquisition of the right-of-way. The parcel is located adjacent to the alignment of N.W. 40th Street that the Department of Roads has provided. The alignment along Hwy 34 sets back 50' off of the future right-of-way in order to assure that there will be a 50' buffer between the right-of-way and the zoning district line so that there will be a minimum of 50' there as a landscaped area that would not be occupied by parking. H-3 permits parking in the front yard.

Hunzeker explained that the purpose of extending the "leg" was to have a parcel that was zoned out that direction far enough to provide for a possible access to Hwy 34. The applicant is in discussions with the Department of Roads about the acquisition of right-of-way. The applicant's first choice would be for this property to have a right-in right-out access. Carlson believes that to be the issue at this point that this hinges on because everything else will be discussed through the platting process. Hunzeker agreed. When the plat is submitted, there will be discussion about access on both streets.

There was no testimony in opposition

Staff questions

Marvin inquired about the Director of Planning's comments attached to the staff report. Marvin Krout, the Director of Planning, explained that he was communicating with the Law Department to assure that a plat was in some way going to accompany the rezoning because the issues of access and improvements were going to be important in granting this change of zone. This property could be exempt from platting and those issues would not have been discussed without this condition as a part of the change of zone. This is basically conditional or contract zoning because we feel there needs to be some mechanism to insure that a plat is processed so that we can go through the discussion about access and improvements. When we talked about having a setback from Hwy 34, the applicant revised the legal showing the 50' area that is now not to be zoned commercial. He is not sure how that will affect the access questions because there won't be commercial zoning extended to Hwy 34. Krout believes that without the commercial zoning extending to Hwy 34, there would be opportunity for access to Hwy 34. A plat has to touch a public or private roadway. Right now there is no roadway out there. We want some kind of simple agreement to accompany the change of zone application as it goes to the City Council which basically states that the applicant agrees to submit a plat to allow the use of the property as desired.

Carlson inquired as to what makes the plat an issue. Is it the road access? Krout explained that there would be no control of access without the plat, except what the applicant might negotiate with the state and some minimal driveway requirements that might be 100' from Hwy 34 or N.W. 40th that the County Engineer would approve. There would be no restrictions. We are setting the tone for this area, which may be developed in a sooner time and we want to

set the right tone for an area along Hwy 34. There was some internal discussion about whether it is appropriate to rezone this area now because it does not have water or sewer and it is a larger area. Krout indicated that he has some empathy for property owners that are trying to maintain or expand a business, and we do expect this area to get water and sewer at some point in the future.

Marvin wanted to know who determines whether there is access on Hwy 34. Krout indicated that both the state and the city would have something to say about that access. There is a separate state permit process, but the city also controls access through the platting process. The city could be more strict, but not less strict, than the state.

Carlson inquired whether it is the Planning staff opinion that the issue of access is sufficiently dealt with here. Krout stated that he is prepared to see if the plat is submitted, and if the city and county staff review the plat and it does not meet our requirements, then there will probably be some appeal process. But, you can separate that issue from the appropriateness of a land use at this location.

Response

Hunzeker agreed with Mr. Krout's testimony. The subdivision will address the access issue. They cannot get the access if the state says no, nor if the city says no. The applicant is willing to go through the platting process and the 10.09 acres is just the number that came out.

Marvin inquired whether the applicant can live without the access on Hwy 34. Hunzeker stated that it is ultimately something the applicant really wants. They wouldn't be talking to the state if they didn't think it was important. However, it is not as important for this property as for the entire area north of Hwy 34. The state is curving the Hwy 79 intersection to a point where there is no stop or 90 degree turn. The length of that distance from N.W. 40th up to the access that they are willing to grant at the half section line is a long ways. Hunzeker believes it makes it difficult to get people in and out if you don't have some access back onto the highway.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Larson moved to approve the staff recommendation, seconded by Taylor.

Carlson thinks it makes sense. There seemed to be some confusion about the number of acres in the staff report, but the testimony has cleared it up.

Marvin stated that he will support the motion.

Motion for conditional approval, as set forth in the staff report, carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Carroll, Krieser and Pearson absent.

This is a recommendation to the City Council.

WAIVER NO. 04012
TO WAIVE SIDEWALKS, STREET TREES,
LANDSCAPE SCREENING, STREET LIGHTS
AND CURB AND GUTTER, ON PROPERTY
GENERALLY LOCATED AT
N. 14TH STREET AND MORTON STREET.

This application was withdrawn by the applicant.

WAIVER NO. 04013
TO WAIVE SIDEWALKS ON PROPERTY
GENERALLY LOCATED AT
S. 70TH STREET AND STERLING PLACE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. **Mike Alesio**, 2601 S. 70th Street, the applicant, stated that he has been in and out of town the last four weeks and has not had an opportunity to talk directly with the staff. He believes there is a possibility that they can reach a compromise. Alesio requested a two-week deferral.

Larson moved to defer two weeks, with continued public hearing and administrative action scheduled for October 27, 2004, seconded by Marvin and carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Carroll, Krieser and Pearson absent.

MISCELLANEOUS NO. 04010
TO AMEND THE NEIGHBORHOOD DESIGN STANDARDS
TO CLARIFY AND TO MODIFY PROVISIONS RELATING
TO PORCHES, PRINCIPAL FACADES, GARAGES, DRIVEWAYS
AND OTHER STANDARDS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Approval, with revisions submitted on October 13, 2004.

Ex Parte Communications: None.

Proponents

1. **Ed Zimmer** of Planning staff presented the proposal and presented six additional letters in support. Zimmer also submitted a new "draft" of the proposed text, including three minor revisions. The changes include the standards relating to garages such that garages be compatible with the character of garages in the area. The changes also relate to notification of a waiver that might be offered by the Planning Director to the neighbors and to the neighborhood associations. The appeal process had identified 10 days; however, the amendment changes the appeal period to 14 days, which is a more standard provision. Zimmer advised that the Neighborhood Design Standards date back to 1989 and were first attached to the Residential Conservation districts. They apply only to new construction of principal buildings. They are reviewed administratively. Originally, the design standards allowed appeal to Historic Preservation Commission and City Council (in 15 years, there has been only one appeal). The basic issues addressed by the design standards are orientation of the buildings with doors and windows to the street; that garage doors not be the principal feature of the front of the building; larger buildings have some architectural elements to break down the scale towards a more typical module; that required parking not be placed between the front of the building and the curb.

Zimmer further explained that in 2000, these standards were extended to all new construction in the R-4 through R-8 Residential Districts in the 1954 corporate limits. This year, the standards were extended to apply to the R-1, R-2 and R-3 Residential Districts.

This new proposal grows out of Antelope Valley and is an attempt to match the standards more closely to the broader areas where they now apply. The new proposal requires at least two windows per floor on the main facade; front porches if it is a predominant neighborhood of front porches; no exterior stairs serving second floor units on the front; garages based on the neighborhood pattern; and whatever the garage condition, the driveways in the front would not occupy more than 20'.

Zimmer believes that these new standards will provide greater administrative flexibility. The Planning Director can issue a waiver with notification to the surrounding neighbors. The appeal process changes from the Historic Preservation Commission to the Urban Design Committee. The final appeal to City Council remains in place.

The Urban Design Committee is appointed by the Mayor and confirmed by Council, and includes a blend of design professionals and interested citizens not of design background.

Carlson confirmed that all of the new elements follow the same dynamic as they look to the surrounding properties for their appropriateness. Zimmer agreed and believes that they also strengthen the area. If there are no porches in the area, they are not required to have porches, but if there are porches, they will be required.

Bills-Strand is concerned about handicap accessibility with the requirement for porches, etc. Zimmer referred to the recently approved Liberty Village development which has zero elevation on the rear. There are typically ways to meet those multiple goals. There would also be the waiver and appeal process, if necessary. Bills-Strand struggles with the ADA issue and requiring someone who is handicapped to go in their back door instead of the front door. She would like to add language to deal with this issue.

Bills-Strand also referred to the requirement that there be no more than three air conditioner units in any required side yard provided that multiple units are 20' apart. Isn't it easier to screen them if they're closer together? Zimmer explained that that provision and the waivers are in response to the experience over the years. The current standard would only allow one air conditioning unit in a required yard. We are more often seeing duplex and tri-plexes with the air conditioning units on the same side of the building. Further, with single family houses, it is not uncommon to have more than one exterior unit. It seemed like this might help and it seemed like a worthwhile flexibility. The clustering of the sound and the impact was one of the key provisions. This was a way to grant more flexibility to a design. This feature is a loosening of the current standard.

Support

1. Kathy Beecham, 2540 C Street, incoming President of the Near South Neighborhood Association, testified in support. Near South is one of the older sections of town between 13th and 27th and South Street and G Street. On September 13, 2004, the Near South Neighborhood Association Board did vote in support of these amendments. The Near South Neighborhood Association has been a firm supporter of these design standards since their inception. This neighborhood is an excellent example of why standards such as these are important to preserve the character of the neighborhood and remain flexible to new construction. These amendments would add several design elements to the planning of any new construction and they would protect the investments made by property owners in older neighborhoods. These will help assure design compatibility for any new construction. The

Near South N.A. also supports the waiver process. If these standards are met in the design phase of a new building, any additional costs can be well contained by planning ahead and builders may find them to be a worthwhile investment in their building in making the property look more attractive. These amendments will help preserve property values in many of the older neighborhoods as well as maintain them as nice places to live for owners and renters.

2. Virginia Wright testified in support on behalf of the **Lincoln Neighborhood Alliance**. On October 10, 2004, the Board of Directors voted to support the proposal because the proposed standards are a reasonable, enforceable and effective tool for maintaining the desired features of Lincoln's diverse neighborhoods, while allowing for realistic, pertinent design and construction guidance.

3. Danny Walker, testified in support on behalf of the **South Salt Creek Community Organization**; however, if there are any amendments that would weaken, modify or change the proposal, he requested that the neighborhoods be notified and that continued hearing be held. He is hopeful that this does some good for his neighborhood, but his neighborhood is located in the floodplain.

Opposition

1. Jerry Boyce, 4631 South 67th Street, a home builder who has specialized in the infill areas of older neighborhoods, advised that he has done a lot of demolition of red-tagged homes and deteriorated homes. Earlier this year, when R-1, R-2 and R-3 were included in the neighborhood design standards, he had requested a slight change pertaining to the mechanical units per side yard to make them a little more acceptable. He couldn't even build a duplex and have both units on one side of the property. He thanked the staff for making those changes. Thus, Mr. Boyce believes that the prior sins that have been committed by builders in the older neighborhoods were adequately addressed with the current standards. Most builders understand the intent of these standards so that new construction is more compatible architecturally, and he believes that the adoption of the past design standards has minimized the sins of builders.

Boyce suggested that these design standards continue to further erode affordability. One reason for building in the older neighborhoods is lower cost lots, making homes more affordable in the low income areas. Sure, we can orient a door and window to the street, but in a predominant pattern where all porches are 10 x 20, it adds a tremendous amount of cost to the construction, as well as the steps. He is also concerned about accessibility and handicap access. Rear yard garages in those cases where there are no alleys adds a lot of cost. The buying public (the lower income buyers) can't even consider a new home unless they look in the older neighborhoods where the lots are more affordable. The economic feasibility to the builder is becoming less and less all of the time. With the increasing impact fees and demolition costs, more design standards make it more difficult to build in the older neighborhoods.

Relating to the “predominant pattern”, Boyce suggested that “predominant” had been considered to be ½ or more prior to this final draft. If you take 10 homes on a facing block front, it used to be 5 homes that had to have the large front porches. Now three or four homes out of those 10 could be the predominant pattern.

2. Mark Hunzeker appeared on behalf of the **Home Builders Association** in a neutral position. He agreed with the point about cost. It is very difficult to take a red-tagged house, tear it down, rebuild and do so economically. He has not had an opportunity to review the text with the staff. We used to have a fairly consistent standard where the design elements were based upon ½ or more of the homes in a block face. We have now gone to a different standard. “Predominant” and “prevailing” are both used and they are not defined. He doubts that the intent is that three houses on the block constitute a predominant pattern.

Hunzeker also suggested that the standard on porches seems a little bit strict and a little rigid. To say that a new house must have a porch, and that front porches shall be equal in width to at least 50% of the length of the front facade and equal in depth to half the depth of the front yard, or ten feet, can constitute a fairly substantial expenditure. 50% of the facade may not be possible.

Hunzeker believes it is good to allow rear attached garages, but there needs to be a little more attention given to the terminology so that it is more clear what must be done without having to come in for interpretation. Hunzeker suggested that he could work with the staff between now and the time this goes to Council to make some changes.

Staff questions

Carlson agreed with Hunzeker as to interpretation. Zimmer stated that he would not think that three out of ten would be considered predominant. The intent is that if there is a very strong pattern, that pattern needs to be respected. If it was a variety, then another varied building did not hurt the character. This would never require more than 50% of the front facade for porches. We don’t want to require more than it would take to follow a pattern in an area, and we also want to be applying them in a way that is understandable.

Marvin asked staff to respond to Mr. Boyce’s testimony that impact fees are raising costs, because if we demolish a single family home and rebuild, there is no impact fee. Zimmer concurred. Marvin also believes that Antelope Valley is an impact fee exempt area. Zimmer again concurred. Marvin wondered whether there is a need to work on the definition of “porch”.

Bills-Strand suggested that language be added to paragraph 5 in Section 4.1, “Creating accessibility for physically handicapped shall be an exception to the requirement of front steps while working to assist a blend of architecture in the surrounding neighborhood.”

She also suggested that language be added at the end of paragraph 3 in Section 4.1, "If a neighborhood has a blend of architectural standards, as long as the exterior of the home blends into the personality of the neighborhood, it shall be permitted." The example given was Sheridan Boulevard where there is a whole variety of styles. Zimmer's response was that in design standards as opposed to preservation guidelines, we try to be more definitive in terms like "personality" and "compatible" which are by their nature interpreted and can be interpreted by a body such as the Historic Preservation Commission. In design standards, we seldom ask staff to judge whether something fits the "personality." The waiver process approaches that, but a term like "predominant" is somewhat more quantitative, and "personality" more qualitative. The staff was striving to create the clarity.

Bills-Strand agreed with Hunzeker and requested that the language should be clarified between now and City Council so that there is less need for interpretation. She also pointed out that Habitat for Humanity does not allow front porches because the additional cost cannot be absorbed. We want these houses to be able to go into these older neighborhoods. Zimmer suggested that the value of front porches can be substantial to the neighborhood.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Carlson moved approval, including the amendments submitted by staff today, and including the amended language suggested by Bills-Strand regarding handicap accessibility. He also included that staff be directed to look at the language that is specific about majority and less specific about predominant pattern. The motion was seconded by Taylor.

Taylor was interested in deferral while the staff clarifies the language and then bring it back to the Planning Commission before it goes to the City Council.

Carlson believes the handicap paragraph is covered with the waiver process and the Fair Housing Act. The language might not be necessary, but it's okay to put it in. He also agrees with the numbers and the interpretation of majority. The waiver process gives more flexibility.

Bills-Strand stated that she is going to trust staff to clarify the language between now and Council. There is another opportunity for public hearing before the City Council.

Carlson believes that there has been good success with design standards because design is always the big issue. He is sensitive to affordability, but we need to protect the vast number of existing houses that represent affordable housing. You can always buy a house and fix it up. Near South is willing to contribute and help build the porches on the front of the Habitat for Humanity homes.

Motion for approval, with amendments, carried 5-1: Carlson, Marvin, Larson, Sunderman and Bills-Strand voting 'yes'; Taylor voting 'no'; Carroll, Krieser and Pearson absent. This is a recommendation to the City Council.

COUNTY SPECIAL PERMIT NO. 04049,
FISHERMAN'S LANDING COMMUNITY UNIT PLAN
and

COUNTY PRELIMINARY PLAT NO. 04023,
FISHERMAN'S LANDING,
ON PROPERTY GENERALLY LOCATED
AT S. 176TH STREET AND FIRTH ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

1. Brian Carstens appeared on behalf of **Merle and Carolyn Jahde**, the applicants. This an AG community unit plan around an existing NRD pond built in the early 1970's consisting of eleven 3-acre lots. The applicants have no objections to the staff recommendation and conditions of approval.

2. DaNay Kalkowski appeared on behalf of **Kelvin Korver** in support. Mr. Korver is a neighbor to the proposed development, with his home on the south side of Pella Road. Mr. Korver has a special permit for a private airstrip on the north side of Pella Road. Mr. Korver has visited with the applicant, who is willing to file covenants which would disclose the location of the airstrip. Since private covenants are not part of the domain of the Planning Commission, Kalkowski offered a motion to amend to add Condition #1.5 on both the special permit and the preliminary plat:

Add a note to the plan stating: "Applicant shall notify potential lot buyers of the existence of the airstrip to the north of the property".

Kalkowski believes that the applicant is in agreement with this amendment.

3. Scott Nelson, Assistant Manager for the NRD in Tecumseh, which is the project sponsor for the lake, stated that the NRD has no issues with this proposal.

There was no testimony in opposition.

COUNTY SPECIAL PERMIT NO. 04049

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Taylor moved to approve the staff recommendation of conditional approval, with the amendment proposed by DaNay Kalkowski, seconded by Sunderman and carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Carroll, Krieser and Pearson absent. This is a recommendation to the Lancaster County Board.

COUNTY PRELIMINARY PLAT NO. 04023

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 13, 2004

Taylor moved to approve the staff recommendation of conditional approval, with the amendment proposed by DaNay Kalkowski, seconded by Sunderman and carried 6-0: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand voting 'yes'; Carroll, Krieser and Pearson absent. This is a recommendation to the Lancaster County Board.

ITEMS NOT ON THE AGENDA:

October 13, 2004

Members present: Carlson, Marvin, Larson, Taylor, Sunderman and Bills-Strand; Carroll, Krieser and Pearson absent.

1. Andrea's Court Community Unit Plan

Danny Walker discussed the City Council's recent public hearing on Andrea's Court, a project located in the proximity of 40th and Superior Street involving a church and apartment complex. During the public hearing at City Council, it appeared that the Planning Commission did not have all the information that they should have had in making a recommendation on this proposal. Walker does not understand why it was not referred back to the Planning Commission for re-hearing. The new information was important enough that the project was delayed at the City Council two to three weeks. The subject property is in the floodplain. An adjacent residential area is in the floodplain with Turner Ditch flooding all of the time. He is uncomfortable with the fact that the Planning Commission did not have all of the information.

Marvin Krout, Director of Planning, believes he sent a note to the Commission about this case indicating that it was subsequently discovered that there might be more of a drainage issue than was first anticipated. The Planning Department relies on a lot of people for information, the applications are sent to a lot of agencies for review and the Department

depends on those other agencies to a certain extent in deciding whether to make a recommendation to hold the project or send it on. It is not that unusual that there may be some details that have not been completely worked out. And, the Planning Commission sometimes sends some applications on to avoid delay. In this particular situation, Public Works initially under-estimated the nature of the drainage problem, and they had asked for certain floodplain information to be submitted, which had not been submitted by the time of the Planning Commission hearing and Public Works did not request that the project be held up. It wasn't until the information was submitted that Public Works discovered how significant the impact might be. Krout agrees that the Planning Commission should have all of the information and sometimes we definitely should hold something up at this level--we just didn't realize it in this case. It is always an option for the City Council to send it back to the Planning Commission. This whole situation of what we do in the established city with floodplains is a difficult. The owner could obtain a fill permit. This is a very complicated situation with a small ditch. The City Council gave an indication that this is a difficult situation in which to put lots of property owners. The "no rise" standard inside the city was set aside. Now the Watershed Management people are trying to work it out. The City Council ended up putting more requirements on the applicant than our floodplain ordinance requires. If the Planning Commission so desires, Krout will communicate to the City Council that the Planning Commission would like to see items such as this come back.

2. Group Homes Task Force

Marvin Krout, Director of Planning, also advised that the Mayor's Group Homes Task Force is nearing completion of their work. They have had input from various stakeholders, but they are also having an open house on Monday, October 18, 2004, at 6:30 p.m. at Lincoln High School. There will be amendments to the zoning code resulting from this process.

There being no further business, the meeting was adjourned at 2:35 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 27, 2004.